

**REMARKS**

The Office Action dated March 10, 2005, has been received and carefully considered. In this response, claims 1 and 16 have been amended and claims 21-25 have been added. Entry of the amendments to the claims 1 and 16, and the addition of claims 21-25 is respectfully requested. Reconsideration of the outstanding rejections in the present application is also respectfully requested based on the following remarks.

I. THE ANTICIPATION REJECTION OF CLAIMS 11-15

On page 2 of the Office Action, claims 11-15 were rejected under 35 U.S.C. § 102(e) as being anticipated by Kesling (U.S. Publication No. 2002/0132575). This rejection is hereby respectfully traversed.

Under 35 U.S.C. § 102, the Patent Office bears the burden of presenting at least a prima facie case of anticipation. In re Sun, 31 USPQ2d 1451, 1453 (Fed. Cir. 1993) (unpublished). Anticipation requires that a prior art reference disclose, either expressly or under the principles of inherency, each and every element of the claimed invention. Id.. "In addition, the prior art reference must be enabling." Akzo N.V. v. U.S. International Trade Commission, 808 F.2d 1471, 1479, 1 USPQ2d 1241, 1245 (Fed. Cir. 1986), cert. denied, 482 U.S. 909 (1987).

That is, the prior art reference must sufficiently describe the claimed invention so as to have placed the public in possession of it. In re Donohue, 766 F.2d 531, 533, 226 USPQ 619, 621 (Fed. Cir. 1985). "Such possession is effected if one of ordinary skill in the art could have combined the publication's description of the invention with his own knowledge to make the claimed invention." Id..

Regarding claim 11, the Examiner asserts that Kesling discloses a method for retransmitting a received radio programming signal (paragraph 0012, and paragraph 0040), comprising the steps of: receiving the signal over a cellular transmission network at a first transceiver station (satellite) configured to output the radio programming signal (program content, music, information, advertisement, etc.) (Fig. 3 number 12 and paragraph 0039 through paragraph 40); and transmitting the signal from the first transceiver station (satellite) to at least a second transceiver station (radio receiver 20) (fig. 3 number 20 and paragraph 0040) configured to output the radio programming signal on a flash card media link (1140) to be read by reader connected to a computer (1150) (paragraph 0041).

Applicant respectfully submits, however, that Kesling does not teach or suggest the step of "receiving the signal over a **cellular transmission network** at a first transceiver station

configured to output the radio programming signal," as expressly recited in claim 11. Indeed, Applicant respectfully submits that Kesling does not teach or suggest any "cellular transmission network," much less a cellular transmission network that transmits a radio programming signal. The portion of Kesling referenced by the Examiner as supporting the rejection discloses satellite transmission network, not a cellular transmission network:

[0039] FIG. 3 is a high-level diagram showing a system 1100 for distributing goods and services, for retrieving information for listeners and for collecting information from listeners in accordance with the principles of the present invention. System 1100 includes a studio/uplink site 1110 that receives program content (e.g., music, information, advertising, etc.) from a content provider 1120 via a feeder link 1130. As will be appreciated by those skilled in the art, the content may be provided electronically or on a physical storage medium such as a compact disc. The studio/uplink site 1110 digitally encodes the selections of music and/or information provided by the content provider 1120 and applies a header that includes a program identifier (PID) that uniquely identifies each selection. The program identifier may uniquely identify a selection of music, an advertisement, merchandise associated with an advertisement, or a category of response or reaction to something that is transmitted to the radio receiver 20, including both audio, text and visual information. The foregoing also applies to systems utilizing multiple uplinks, provided that a PID is applied to all content regardless of the origin of the uplink.

[0040] The encoded bit stream along with the header is uplinked from the studio/uplink site 1110 to satellite 12 via antenna 30. As mentioned above, satellite 12 acts as a bent pipe with a frequency translation

(e.g., from X band to S band) and retransmits the received signal to a portable/mobile satellite radio receiver 20.

See, Kesling, ¶s 0039-0040.

Claims 12-15 and 21 are dependent upon independent claim 11. Thus, since independent claim 11 should be allowable as discussed above, claims 12-15 and 21 should also be allowable at least by virtue of their dependency on independent claim 11. Moreover, these claims recite additional features which are not claimed, disclosed, or even suggested by the cited references taken either alone or in combination. For example, claim 21 recites "wherein the radio programming signal is transmitted to the cellular transmission network by a radio programming source through a data network or gateway." Applicant respectfully submits that Kesling does not teach or suggest any such feature or functionality. Indeed, the only reference in Kesling to wireless transmission concerns the use of such networks for capturing selected program identifiers associated with program segments that are of interest to the user, rather than the actual transmission of radio programming signals as recited in claim 11<sup>1</sup>:

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<sup>1</sup> All embodiments disclosed by Kesling require the transmission of radio programming signals through a satellite transmission network. See, e.g., Abstract (A system and method of implementing mobile commerce in a "*satellite radio programming broadcasting system*."); see also item 12 in Figures 1-4.

[0047] A scroll button 1230 permits scrolling through program identifiers that have been previously tagged or selected, or have otherwise been stored in nonremovable memory 500. A slot 1240 may be provided for flash card memory, i.e., media link 1140. Alternatively, low power wireless transmitter 600 (e.g., an infrared transmitter or RF transmitter in accordance with the Bluetooth standard or other suitable well-known technology) may be employed to transfer information, namely, program identifiers, from radio 20 to media link 1140, which, again, may be a flash memory or, as another example, a "Plug & Play" device manufactured by SONY Inc., Japan. **As explained, media link 1140 is used for capturing selected program identifiers associated with program segments that are of interest to the user.** In accordance with the present invention, media link 1140 is not limited to a physical device, but can be replaced by wireless link to computers or web sites as will be explained in more detail below.

\* \* \* \* \*

[0048] In still another or combination embodiment, radio 20 includes a high power wireless transmitter 700 (shown in FIG. 4), which preferably operates using technology, protocols and electromagnetic spectrum allotted to, for example, well-known text paging systems (e.g., the well-known Mobitex network operated by Cingular Wireless, Atlanta, Ga.) or short messaging systems embodied in cellular telephones networks. Thus, in this case, media link 1140 of **FIG. 3 is replaced by a wireless transmission link.**

See, Kesling, ¶s 0047-0048 (emphasis added).

In view of the foregoing, it is respectfully requested that the aforementioned anticipation rejection of claims 11-15 be withdrawn.

II. THE OBVIOUSNESS REJECTION OF CLAIMS 1-11 AND 16-20

On page 3 of the Office Action, claims 1 and 5-8 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Lee (U.S. Patent No. 6,728,531) in view of Timm (U.S. Patent No. 4,435,845). On page 6 of the Office Action, claims 2-4 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Lee in view of Timm as applied to claim 1 above and further in view of Kesling. On page 6 of the Office Action, claim 9 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Lee in view of Timm as applied to claim 1 above and further in view of Mauro, II (U.S. Publication No. 2002/0103003). On page 6 of the Office Action, claim 10 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Lee in view of Timm as applied to claim 1 above and further in view of Helferich (U.S. Patent No. 6,462,646). On page 7 of the Office Action, claims 16-19 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Kesling in view of Timm. On page 8 of the Office Action, claim 20 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Kesling in view of Timm as applied to claim 16 above and in further view of Mauro, II. These rejections are hereby respectfully traversed.

As stated in MPEP § 2143, to establish a prima facie case of obviousness, three basic criteria must be met. First, there

must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations.

Regarding claim 1, the Examiner asserts -- and Applicant agrees -- that Lee does not disclose transmission means for transmitting the radio programming signal to a second receiver configured to deliver an audible portion of the radio programming signal. However, the Examiner asserts that Timm teaches an automobile radio-cassette unit for FM radio stereo reception which provides broadcast announcements to a speaker 14 and earphones (KH1 and KH2). Therefore, the Examiner submits, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Lee's vehicle radio with transmission means for transmitting the radio programming signal to a second receiver configured to deliver an audible portion of the radio programming signal in order for a passenger of the vehicle to receive AM/FM music in private, so that other passengers are not disturbed, as taught by Timm.

Although Applicant does not agree with the pending rejections, Applicant has nonetheless amended independent claim 1 and 16 to clarify the claimed subject matter and better distinguish the cited references. In particular, Applicant has amended independent claim 1 to recite a "transmission means for transmitting the radio programming signal to a second receiver configured to: (1) deliver an audible portion of the radio programming signal, and (2) retransmit the radio programming signal." Claim 16 has been amended to recite "transmission means for transmitting the radio programming signal to at least one device configured to: (1) deliver the radio programming signal, and (2) retransmit the radio programming signal."

Applicant respectfully submits that none of the cited references teach or suggest the features and functionality recited in amended claims 1 and 16. Trimm, for example, fails to teach or suggest the retransmission of signals from the headsets disclosed. Kesling -- which the Examiner asserts discloses the retransmission functionality of claim 2 -- also does not teach or suggest any feature or functionality. Rather, Kesling, as argued above, merely teaches the transmission of program identifiers, not the retransmission of the "radio programming signal," as expressly recited in amended independent claims 1 and 16:



A slot 1240 may be provided for flash card memory, i.e., media link 1140. Alternatively, low power wireless transmitter 600 (e.g., an infrared transmitter or RF transmitter in accordance with the Bluetooth standard or other suitable well-known technology) **may be employed to transfer information, namely, program identifiers, from radio 20 to media link 1140**, which, again, may be a flash memory or, as another example, a "Plug & Play" device manufactured by SONY Inc., Japan.

See, Kesling, ¶ 0047, lines 4-11 (emphasis added).

Claims 2-10 and 17-20 are dependent upon independent claim 1 or 16. Thus, since independent claim 1 and 16 should be allowable as discussed above, claims 2-10 and 17-20 should also be allowable at least by virtue of their dependency on independent claim 1 or 16. Moreover, these claims recite additional features which are not claimed, disclosed, or even suggested by the cited references taken either alone or in combination. For example, claim 2 recites "wherein the processor means comprises an RF module for processing and re-transmitting the radio broadcast signal." Applicant respectfully submits that, as explained above, Kesling does not teach or suggest any such feature or functionality.

In view of the foregoing, it is respectfully requested that the aforementioned obviousness rejection of claims 1-11 and 16-20 be withdrawn.

III. CONCLUSION

In view of the foregoing, it is respectfully submitted that the present application is in condition for allowance, and an early indication of the same is courteously solicited. The Examiner is respectfully requested to contact the undersigned by telephone at the below listed telephone number, in order to expedite resolution of any issues and to expedite passage of the present application to issue, if any comments, questions, or suggestions arise in connection with the present application.

To the extent necessary, a petition for an extension of time under 37 CFR § 1.136 is hereby made.

Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account No. 50-0206, and please credit any excess fees to the same deposit account.

Respectfully submitted,

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**APPENDIX A**

1. (Currently Amended) A receiver for receiving a radio programming signal broadcast over a cellular transmission network, the receiver comprising:

an input for receiving the radio programming signal;

an audio output for delivering an audible portion of the radio programming signal;

transmission means for transmitting the radio programming signal to a second receiver configured to: (1) deliver an audible portion of the radio programming signal, and  
(2) retransmit the radio programming signal; and

processor means for processing the radio programming signal.

2. (Original) The receiver of claim 1 wherein the processor means comprises an RF module for processing and re-transmitting the radio broadcast signal.

3. (Original) The receiver of claim 1 wherein the processor means comprises a digital decoder module for decoding and processing digital signals embedded in the radio programming signal.

4. (Original) The receiver of claim 1 wherein the processor means comprises an audio decoder module for decoding and processing audio signals embedded in the radio programming signal.

5. (Original) The receiver of claim 1 further comprising a memory means for storing at least a portion of the radio programming signal.

6. (Original) The receiver of claim 5 wherein the memory means comprises Random Access Memory (RAM) for buffering data related to the radio programming signal.

7. (Original) The receiver of claim 5 wherein the memory means comprises persistent memory for storing data and voice data related to the radio programming signal.

8. (Original) The receiver of claim 1 wherein the processor means further comprises a processor for running software and for voice processing.

9. (Original) The receiver of claim 1 further comprising software supporting the playback of audio formats such as MP3 and WAV.

10. (Original) The receiver of claim 1 further comprising a video output for delivering a video portion of the radio programming signal.

11. (Previously Presented) A method for retransmitting a received radio programming signal, comprising the steps of:

receiving the signal over a cellular transmission network at a first transceiver station configured to output the radio programming signal; and

transmitting the signal from the first transceiver station to at least a second transceiver station configured to output the radio programming signal.

12. (Original) The method of claim 11 further comprising the step of processing the signal at the first transceiver station prior to retransmitting.

13. (Original) The method of claim 11 wherein the second transceiver station comprises a stereo system.

14. (Original) The method of claim 11 wherein the second transceiver station comprises a car radio.

15. (Original) The method of claim 11 wherein the first transceiver station further comprises an infrared link.

16. (Currently Amended) A system for receiving and transmitting a radio programming signal over a cellular transmission network, comprising:

input means for receiving the radio programming signal;

output means for delivering the radio programming signal;

transmission means for transmitting the radio programming signal to at least one device configured to: (1) deliver the radio programming signal, and (2) retransmit the radio programming signal; and

processing means for processing the radio programming signal.

17. (Original) The system of claim 16 wherein the transmission means comprises an RF module.

18. (Original) The system of claim 16 wherein the transmission means comprises an infrared link.

19. (Original) The system of claim 16 wherein the processor means comprises a processor.

20. (Original) The system of claim 16 wherein the processor means further comprises software supporting the playback of audio formats such as MP3 and WAV.

21. (New) The method of claim 11 wherein the radio programming signal is transmitted to the cellular transmission network by a radio programming source through a data network or gateway.

22. (New) The receiver of claim 1 wherein the input receives the radio programming signal over the cellular transmission network.

23. (New) The receiver of claim 1 wherein the transmission means transmits the radio programming signal wirelessly.

24. (New) The system of claim 16 wherein the input receives the radio programming signal over the cellular transmission network.

25. (New) The system of claim 16 wherein the transmission means transmits the radio programming signal wirelessly.